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DEPARTMENT OF STATE

BUREAU OF EUROPEAN AFFAIRS

TO: EUR - Mr. Merchant
FROM: Foy D. Kohler *FDK*
SUBJECT: Analysis of Soviet Note, Alphand Message

Herewith is a somewhat lengthy preliminary analysis of the Soviet note prepared at the working level in GEM and EE. It is rather diffuse and needs reworking, but the general line of thought should be helpful on your Sunday trip. Unless you wish to review the contents of the note and an analysis of Soviet motives, you can safely begin your reading with Section C.

A paper which I dictated myself yesterday is also attached/giving in somewhat briefer fashion some general comments on the note. Portions of this have also been incorporated in and elaborated on in the final section of the longer paper.

A flimsy copy of a telegram summarizing German Foreign Office thinking (which is still pretty elementary) as given to us today by the German Embassy is also attached. 7443 A

Alphand just called to say that Paris agrees to a Foreign Minister's meeting before the NATO meeting on December 15, on the understanding that the three will meet first, then the fourth (Germany) will be brought in.

The French also propose that both the Washington and Bonn groups continue working during the next week, then meet in one of the capitals on December 8, preferably Paris, but not Bonn, to finalize the Western reply. I promised to report this to you and the Secretary.

Approved as given by Secy
Used for briefing of members
by Asst. Secy. ~~and~~
Nov. 30, 1954.

EUR:FDKOHLER/EUR:GER:W.Hillenbrand:jk
1/29/58

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By LV NAVFAC Date 11/27/85

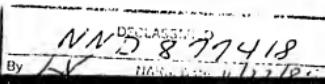
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PRELIMINARY ANALYSIS AND CONCLUSIONS ON SOVIET NOTES OF
NOVEMBER 27, 1958 PERTAINING TO BERLIN

Contents

- A. Description of Soviet Notes
- B. Probable Soviet Motivation and Objectives
- C. Consequences of Acceptance of Soviet Proposal
- D. Considerations Governing Response to Soviet Note

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(2) November 28, 1958

TO: GER - Mr. Hillenbrand

FROM: EUR - Foy Kohler

ALLIED RESPONSE TO SOVIET NOTES OF NOVEMBER 27 ON
BERLIN

Some Preliminary Ruminations

I. The propaganda in the Soviet notes, particularly the falsification of the history of World War II and its aftermath, reaches depths of mendacity well beyond those of Stalin's day. We should be able to cope effectively with the polemical side, however, through our own propaganda machinery. We have already suggested to Mr. Berding the possibility of a pamphlet to be distributed world-wide. This could have perhaps two columns:

- (1) History as per the Soviet note and
- (2) the facts; or maybe three columns

1. Today's Soviet version of history as per the Soviet note
2. The contemporary Soviet version as per actual Soviet documents and speeches (e.g., the Nazi-Soviet Pact of September '39, Molotov's speech

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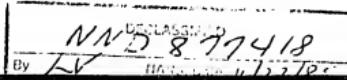
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of October '39 on occasion of partition of Poland, etc.)

3. The facts.
- II. Our formal reply to the Soviet note could thus largely avoid polemics. It would set out:
 1. The legal position -- i.e., that the Soviet Union cannot unilaterally divest itself of its obligations; that if it insists on renouncing these, they can only devolve on the other three principal Allied Powers and not on any fifth party, least of all the so-called GDR
 2. A negotiating posture. Presumably this would follow the line suggested in the November 27 press release i.e., that we are prepared to negotiate on the question of all of Germany of which Berlin is only a part. There might be some modification in our position as to the terms of this negotiation possibly along the somewhat softer lines of the German note of November 1⁴.
 3. A negotiating forum. We should not lose sight of the fact that proposals for general preparatory negotiations with the Soviet Union are now on the table in Moscow together with our procedural proposals and the package includes agenda items proposed by both sides relating to Germany.



We would have to consider whether we stand on the proposal at the Ambassadorial level or whether we are prepared to suffer an immediate CFM or higher level meeting.

III. Assuming that direct negotiations cannot be arranged or that they fail--as seems likely--there would still be further steps to take to demonstrate that we had exhausted all peaceful procedures. These would include

1. Charges in the UN Security Council that the Soviet action is a threat to the peace. This action would presumably meet with a Soviet veto but would provide a good forum for bringing out the nature of the threatened Soviet aggressive act.
2. Report to the International Court of Justice for the upholding of our legal position. This would presumably be an exercise just for the record since presumably the USSR would not accept ICJ jurisdiction.

IV. A reiteration direct to the Soviet Union by the three Allied Powers of their legal position and of their determination to themselves assume the obligations of the Soviet Union for the protection of the Allied garrisons in West Berlin and of their access rights. This would be accompanied by appropriate deployment of forces and other mobilization measures.

EUR:FDKohler:bsm

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 Embassy BONN
 USBRK BERLIN
 Embassy PARIS
 Embassy LONDON
 Embassy MOSCOW

Paris for Embassy and USRC

German Embassy has passed to Department Fedrep analysis Soviet note on Berlin. Highlights follow:

While Soviets ostensibly ready negotiate, (result probably of strong Western reaction to Nov. 10 Khrushchev speech) its readiness limited as to (a) QUOTE matter UNQUOTE - only willing to talk about West repeat West Berlin (b) QUOTE timing UNQUOTE - limit of six months imposed on negotiation and (c) QUOTE method UNQUOTE of discussion - putting West under pressure by announcement that Soviets will in the end transfer functions to GDR, if West does not accept Soviet proposals.

Conclusion: Proposal has character of ultimatum.

Soviet proposal would create new German state, thus dividing Germany into three parts. Formal creation of West Berlin as free city can only be understood as creating additional difficulty for reunification.

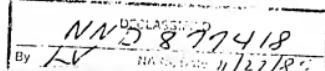
Proposed QUOTE free city UNQUOTE covers only one part of Berlin.

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CCR - H. J. Killebrand

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1. Description of Soviet Notes

In its notes of November 27 to the United States, the United Kingdom and France, the Soviet Government states its readiness to open quadripartite negotiations on "making Western Berlin an independent political entity---a free city", "demilitarized and having no armed forces on it" and managing its own government without interference from "either of the existing German states". The note proposes that the Four Powers "respect the status of Western Berlin as a free city" in a manner similar to the "respect for the neutral status adopted by the Austrian Republic", and states that the Soviet Government would not object to the United Nations "sharing in observing the free city status".

These proposals are contained in a 24-page note tracing Western relations with Germany since Munich. The note explicitly states that the USSR regards as "null and void" the quadripartite agreement of September 12, 1944, regarding the occupation zones and the administration of Berlin and "associated" agreements, including that of May 1, 1945, which set up the ^{Allied Control} ~~Soviet Union's~~ ^{machinery in Germany.} ~~regards (them) as null and void.~~ It charges that the legal position of the Western Powers in Berlin has been undermined by their failure to live up to the terms of the Potsdam Agreement, and that the passage of thirteen years makes the presence of the Western Powers abnormal. It also charges that the Western Powers have retained their rights in Berlin for the purpose of aggressive acts against East Germany, the Soviet Union and other Eastern European states, and that "any violation of the frontiers of the GDR" will be regarded by the USSR and other members of the Warsaw Pact "as an act of aggression

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Soviet proposal would necessarily require dealings with GDR, and at least indirect recognition would be inevitable.

There would be no guarantees of freedom and security of Berlin. Only effective safeguard up to now is physical presence allied troops in Berlin, which prevents Communist use of force. Under Soviet proposal West Berlin would be in continuous danger of interruption by Soviets or Pankow.

Last escape route for refugees would be cut off.

Pankow could, by control of communications disturb as it chose, not only the economy, but the supply of West Berlin.

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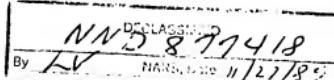
against them all and will immediately cause appropriate retaliation."

In the event the Western Powers agreed to the Soviet proposal, the Soviet Government offers to undertake negotiations on this question with the German Democratic Republic, and the note calls attention to the necessity "of some kind of an agreement with the German Democratic Republic concerning guarantees of unhindered communications between the free city and the outside world". The note states that "there is no topic left for talks on the Berlin question" if the Soviet proposal is not acceptable. The Soviet Government "proposes to make no changes in the present procedure for military traffic to Berlin for half a year". (In view of the equivocal nature of this statement, it may be relevant that the Soviet note to the GDR speaks of handing over Soviet rights in Berlin "in the course of six months". The note states further that the Soviet Union will effect the planned measures before turning over Soviet rights to the GDR "if the above period is not used for reaching a relevant agreement".

The note also defends the Soviet position regarding German reunification and the German peace treaty and charges that "Western Powers have made no proposals on their own (on a German peace treaty) throughout the post war period". The note claims that the best way in which to solve the Berlin question in accordance with the Potsdam Agreement would be for the two German states to withdraw from NATO and the Warsaw Treaty Organization and agree that neither "will have any armed forces in excess of those needed to maintain law and order at home and guarantee the frontiers".

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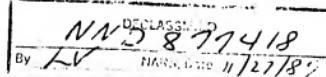
the Soviet note to the GDR states that the turnover of Soviet functions and the dissolution of the Soviet Kommandatura "will be realized in the course of half a year" and a Soviet commentator on November 28 said the USSR "intends to go right ahead and confer all functions" on the GDR.

The note suggests some firming of the Soviet position regarding the GDR and Berlin. The flat statement that road, rail and air access will be controlled by the GDR makes specific what has heretofore been only implied in the Soviet position and the definition of what will be regarded by the USSR as an "attack" on the GDR is spelled out further to apply to "any violation of the frontier". It is still considered unlikely that the USSR contemplates the use of force to prevent Allied access to Berlin. The Soviets will probably be content to turn over the controls to the GDR, calculating that the West will not be able to challenge effectively GDR control of the rail and road access. They will probably suffer airlift support of the Allied garrisons ("frontier" can be interpreted, if need be, as applicable to land not air borders), but maintain a propaganda attack on the allied forces in Berlin, as unjustified military occupation and a cause of East-West tensions. Behind the "free West Berlin" proposal and the continued emphasis on West Berlin's threat to the East Zone may lie a determination to close the West Berlin "escape hatch" to the West. However, only traffic control of some kind and not a blockade of the West German-West Berlin traffic is probably contemplated at this time because of the damage a blockade would cause to the Soviet initiative on the broad German problem.

The USSR probably did not advance its proposals with the expectation that they would provide a basis for negotiations on West Berlin. The requirement

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B. Probable Soviet Motivation and Objectives

The contents of the note offer no substantive ground for altering our conclusions regarding the aims of current Soviet moves regarding Berlin and Germany. The major Soviet objectives still appear to be the strengthening and legitimization of the East German regime as a step toward recognition of the status quo in Eastern Europe. The Soviets also clearly hope to inhibit the nuclear armament of the Federal Republic and, if possible, to bring about the withdrawal or reduction of Western troops stationed there. However, Khrushchev's flat statement in his unprecedented November 27 press conference that West German renunciation of its rearmament program would not alter the Soviet Position on Berlin strongly suggests that the Soviet Union places top priority on ousting the Allied garrisons and improving the position of East Germany.

The note suggests no fundamental change in the probable course of Soviet action. The USSR apparently still intends to turn over its functions in Berlin to the East German authorities. Both the note to the U.S. and to the GDR go further than previous Soviet statements in specifying that the GDR will "in the future exercise its sovereignty on land, at sea and in the air". The transfer of functions may proceed at any time. The reference to a six month period during which "no changes in the present procedure for military traffic" to Berlin will be made is equivocal in the notes to the Western Powers. Furthermore, the Soviets certainly know that the proposal for withdrawal of Western forces from Berlin and for the severance of West Berlin ties to West Germany and the implied moratorium would not apply should Western response to the Soviet note be considered to indicate non-acceptance. Also

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for withdrawal of allied forces, the demand for complete rupture of West Berlin-West German ties and the ultimatum character of the note are clearly unacceptable bases for talks with the U.K., the U.S., France and West Germany.

1.) The note is probably intended to be the opening gun in the Soviet campaign to generate pressure against the Western position in Germany and against West German policy on reunification. It provides the Soviets with an initiative.

2.) Its specious proposal for a form of peaceful and "reasonable" settlement of the Berlin question (not demanding incorporation of West Berlin into the GDR, not involving either recognition or de facto dealings with the GDR by Western powers, opening the possibility of UN participation in solving the Berlin problem) will probably have some appeal to uninformed sectors of public opinion, both in the Eastern and neutralist countries.

3.) The specification of six months "breather" period, though equivocal, is calculated to dissipate Soviet responsibility for an increase in tensions, which might have accompanied any immediate Soviet challenge to the allied position in Berlin unaccompanied by an offer to negotiate.

4.) This period may also be intended to provide a time during which Western public discussion of the issues may generate differences and intensify pressures for solutions acceptable to the USSR.

5.) It may also well be that the USSR desired some time in which to develop and publicize further its own proposals on the whole German problem, (a German peace treaty, troop reductions or withdrawals, the atom-free zone, nonaggression pact). In this connection, it should be noted that the proposal for negotiating a "Peace Treaty" with the two German states is just an indirect method

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method of accomplishing the same result as the present more direct proposal, i.e. to terminate Allied occupation rights in Berlin, while leaving the GDR intact.

In addition the note should be regarded as a major propaganda exercise designed to take advantage not only of the unfamiliarity of the uninformed and uncommitted elements of world opinion but also of the wishful-thinking and battle-fatigued elements. It is quite possible that the Soviets believe their argumentation and proposal might for example, shake the solidarity of the NATO countries on the Berlin question, and eventually on the broader questions of German reunification and European security.

While it seems unlikely that American or German popular opinion could fail to recognize the issues involved, the note may well encounter a more receptive atmosphere elsewhere. Many of those who are not combatants on one side or the other of the cold war fail to understand the crucial importance of the struggle for Berlin. Some tend to see Berlin in the light of a dangerous point of conflict where a slip by either side could turn the cold war into a hot one. To those who think along these lines, the liquidation of the Berlin problem along the lines of the Soviet proposal might be tolerable even though distasteful.

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C. Consequences of Acceptance of Soviet Proposal

The acceptance of the Soviet proposal for transforming West Berlin into a "free city" would be elimination of the protection afforded by the presence of the Three Western Powers which is the very basis of the city's freedom and security. Once these were eliminated, the Soviets would have little difficulty in accomplishing their longer-range objective of incorporating the city fully into the GDR, and the recent East German "elections" make it clear how they envisage the population's expressing its consent to such a development. Stated in blunt terms and seen in the light of known Soviet objectives, the Soviets are proposing:

- a. That the separation of East from West Berlin be formally recognized until such time as the entire city is incorporated into the GDR. The note says this is the "correct and natural way to solve the problem".
- b. That the Allied Kommandatura be abolished and that the Western occupation forces be withdrawn. (The reference to the "demilitarization" of West Berlin no doubt indicates that West Berlin would be deprived of police units (the Bereitschaftspolizei) trained to safeguard its security.)
- c. That West Berlin sever its ties with the Federal Republic. (Except for its formal legal status and questions of its security, West Berlin has to all intents and purposes become a part of the Federal Republic. Severing this tie would have catastrophic effects on the city's political, economic, financial, legal, and social systems.)
- d. That the GDR exercise full control over West Berlin's communications with the outside world.
- e. That West Berlin not engage in any activity directed against the GDR.

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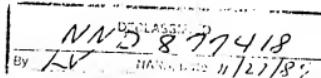
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... this phrase no doubt covers not only clandestine intelligence and propaganda activities but also the free dissemination of information, normal political activities in West Berlin, reception of refugees from the Soviet Zone, etc.) This would provide the excuse for endless intervention and police action within West Berlin by GDR or possibly Soviet forces.

f. That West Berlin's economy be absorbed into that of the Communist bloc.

Acceptance of the proposal, even in a very modified form, by the Western Powers would amount to a repudiation of their Berlin guarantee and a sell-out of the city to the Communists. No action by the Western Powers could generate a more adverse reaction in German and world opinion, and the consequences would be incalculable.



Considerations Governing Response to Soviet Note

It appears from the foregoing discussion that the proposals contained in the note do not provide any basis for discussions which could culminate in a solution of the Berlin problem acceptable from our point of view. In fact, the restatement of the known Soviet position, coupled with a proposal which is obviously unacceptable to the Western Powers, a denunciation of the pertinent agreements, and a deadline after which the Soviets will accept no further responsibility for Berlin, gives the note the character of an ultimatum.

In addition to the possible propaganda effect of the Soviet note on those segments of world opinion which do not understand or particularly care about the issues involved in the Berlin crisis, there is another factor which makes it preferable, however, to avoid an entirely negative response, i.e. a flat restatement of the known Western position and an outright rejection of the Soviet proposal.

The Khrushchev speech of November 10 and other threats against the status of Berlin had already provoked a crisis of the first magnitude in the relations of the Western Powers and the USSR in Germany. Underlying this crisis is a challenge to the very basis of Western policy on the German question and a supreme test of Western intentions, influence, and power in Germany. We are now in a position where it would be difficult, and probably unwise, for us to content ourselves with an attempt to maintain an illusory normalcy in Berlin. On the other hand, if we accept the challenge implicit in the present crisis and in the Soviet note, we have a chance to wrest the initiative from the Soviets. An additional factor which makes this an opportune moment for doing so is that public opinion, especially in Germany,

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has given unexpectedly strong support to the idea of the Western Powers' holding firm.

In order to make our reply to the Soviet note as positive as possible, it would be preferable to refrain in the reply from commenting in detail on the great accumulation of historical distortions, factual misrepresentations and legal errors contained in the note. None of the false statements in the note should be left unrefuted, but it seems preferable to deal with them apart from our response to the Soviet proposal on Berlin. The possibility of preparing a pamphlet for world-wide distribution correcting the falsifications of the history of World War II in the Soviet note is now under way and other moves are being considered in the psychological field.

Our formal reply to the Soviet note, which would largely avoid polemics, could set out:

1. The legal position -- i.e., that the Soviet Union cannot unilaterally divest itself of its obligations; that if it insists on renouncing these, they can only devolve on the other three principal Allied Powers and not on any fifth party, least of all the so-called GDR together with a proposal all parties to the agreements submit the dispute to the ICJ for decision.

2. A negotiating posture. Presumably this would follow the line suggested in the November 27 press release, i.e., that we are prepared to negotiate on the question of all of Germany of which Berlin is only a part. There might be some modification in our position as to the terms of this negotiation possibly along the somewhat softer lines of the German note of November 14.

Since the Soviet note makes it clearer than ever that the Soviets will not accept any reunification of Germany on terms acceptable to the Germans and ourselves

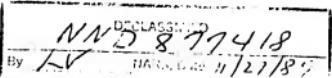
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ourselves and that the Soviets are more fully committed than before to the position that reunification is an internal problem to be regulated by the "two German states", a restatement of the known Western position (e.g. some modification of the 'Eden Plan') might appear anticlimactic. The Soviet note might, however, provide a springboard for a fresh approach to the German problem which could not only consolidate German opinion (which had shown some signs of wavering before the Berlin crisis) behind us but might also put sufficient pressure on the USSR to induce the latter, if not to yield ground on the question of reunification, at least to allow the status quo to be made more tolerable to the German population and to proceed with greater caution in harassing Berlin and eliminating the last vestiges of freedom in the Soviet Zone. One possible approach suggested by the Soviet note would be to base a new approach to the German problem on the assertion that the USSR, by renouncing its obligations regarding Germany both in practice and in principle, has forfeited or foregone its rights in Germany. Following up such a line would hardly bring any substantive changes in policy but it might give us greater maneuverability in negotiating and permit us to restate the underlying issues in fresher and more persuasive terms.

It might be easier, but would probably be less productive, to limit ourselves to Berlin. The Soviet note provides a ready-made opening for a counterproposal on Berlin which would renew previous attempts to eliminate some of the disadvantages which the city suffers as a result of the division of Germany. In all probability any counterproposal we could submit to the Soviets would be no more acceptable to them than their proposal of a "free city of West Berlin" is to us, and it is unlikely that any basis for useful negotiation

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negotiation on the Berlin situation could be found. Our counterproposal could, however, make the issues in the current Berlin crisis clear while at the same time revealing the Soviet proposal for the ill-concealed attack on Berlin's security and freedom it is and demonstrating that we are prepared to take a positive rather than a negative approach to the Berlin problem.

Assuming that direct negotiations cannot be arranged or that they fail--either or both seems likely--there would still be further steps to take to demonstrate that we had exhausted all peaceful procedures. These would include

a. Charges in the UN Security Council that the Soviet action is a threat to the peace. This action would presumably meet with a Soviet veto but would provide a good forum for bringing out the nature of the threatened Soviet aggressive act.

b. Additional efforts to resort to the International Court of Justice for the upholding of our legal position. Such efforts would presumably be unavailing since the USSR probably would not accept ICJ jurisdiction.

3. A negotiating forum. We should not lose sight of the fact that proposals for general preparatory negotiations with the Soviet Union are now on the table in Moscow together with our procedural proposals and the package includes agenda items proposed by both sides relating to Germany.

We would have to consider whether we stand on the proposal at the ambassadorial level or whether we are prepared to offer an immediate CM or higher level meeting. In this case, we might offer a simple all-inclusive agenda, e.g., "Germany" or "German Problems".

In the end, and before the expiration of the "period of grace" we will probably

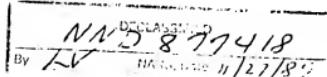
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probably find it necessary to come through on our promises to protect West Berlin by force if necessary. Consequently, after the exhaustion of peaceful remedies alone the lines suggested above, there would have to be a reiteration direct to the Soviet Union by the three Allied Powers of their legal position and of their determination to themselves assume the obligations of the Soviet Union for the protection of the Allied garrisons in West Berlin and of their access rights. This would be accompanied by appropriate deployment of forces and other mobilization measures.



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An Additional Note

One aspect of the Berlin situation which appears to be a source of real concern to the Soviets is the activity of various Western intelligence organizations in the city. The need for and utility of the manifold operations of these organizations might be reviewed. Needless to say, such actions, which are often covert, are not a subject for negotiation with the Soviets, but it is conceivable that we might, under circumstances in which reasonable negotiations appear possible, wish to improve the atmosphere by eliminating the less profitable of these operations. The West Berliners and West Germans have also expressed dissatisfaction with the use of their city for certain intelligence functions. One possibility which has been suggested by West Berlin spokesmen, and which we might now consider more carefully, would be the elimination of all refugee interrogation in Berlin and the immediate transport of all refugees out of Berlin and into the Federal Republic. We might similarly review the various anti-Communist propaganda activities in Berlin (for example, propaganda balloon activities) to assure that they are not more of a disadvantage in offering the Soviets a pretext for pressure on Berlin than they are an advantage in retarding the Communization of the Soviet Zone.

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